

City Council Minutes, October 13, 2022

Mayor Sessions called the meeting to order at 6:30PM, October 13, 2022. Those in attendance were Brian West, Monty Parks, Nancy DeVetter, Barry Brown, Jay Burke and Spec Hosti. Also attending were Dr. Shawn Gillen, City Manager; Bubba Hughes, City Attorney; Tracy O'Connell, City Attorney; Jake Saas, Ellis Painter; George Shaw, Director, Community Development; and Jan LeViner, Clerk of Council.

Opening Ceremonies

Call to Order

Posting of the Colors and Pledge of Allegiance

Invocation: Jan LeViner, Clerk

Monty Parks made a motion to adjourn to executive session to discuss litigation. **Barry Brown** seconded. Vote was unanimous to approve, 6-0.

Monty Parks made a motion to return to regular session. **Spec Hosti** seconded. Vote was unanimous to approve, 6-0.

Dr. Gillen gave an update on the recent water failure and the Boil Water Advisory. Dr. Gillen went over the timetable of events to include preventative measures for the future. The EPD was contacted and will meet with Staff to review procedures and processes. Mayor Sessions thanked Dr. Gillen for everything he did to ensure residents were aware of the status of the water situation. Michelle Owens asked the residents for recommendations on how to reach those who do not have internet for better communication. She recommended everyone sign up for the alerts.

Mayor Sessions read a Proclamation for Tybee Island's 135th Birthday.

Michelle Owens approached Mayor and Council to give a report on the activities for the birthday celebration. Ms. Owens invited everyone to Memorial Park on Saturday, October 15, 2022 for a birthday party and picnic in the park. Other activities are trolley tours of Tybee Island and a talent show on November 23, 2022 for Lights Up for Tybee, local talent showcase, at Tybee Post Theater. Mayor Sessions thanked Ms. Owens and her committee for their hard work.

Mayor Sessions added the following to the Consent Agenda:

- Minutes, September 22, 2022
- Attachments to Minutes, September 22, 2022
- Minutes, Special Public Hearing, September 28, 2022
- Travel: Jamey Rabun: National Association of RV Parks and Campground's Outdoor Hospitality Conference and Expo. Budge, Travel and Training 555-52-3500
- Approve lowest bid RW Allen Construction, City Hall Remodel, \$1.7M with alternates in the amount of \$203,886
- Ante Litem: Ryan Longwater. To reject

Sarah Jones approached Mayor and Council to give an update on the Tybee Island Historical Society. Ms. Jones informed Mayor and Council of a very special event on Tuesday, October 18, 2022 at 10:00AM at the Tybee Island Light Station. She continued, the Historical Society has been honored to collaborate with the Middle Passage Port Ceremony Marker Project. This is to designate Tybee Island as a UNESCO Site of Memory for the Middle Passage. Mayor Sessions thanked Ms. Jones for her hard work.

If there is anyone wishing to speak to anything on the agenda other than the Public Hearings, please come forward. Please limit comments to no more than 5 minutes.

Dee Matkowski approached Mayor and Council to speak in favor of the proposed STR ordinances.

Clair Reeve and **Brook Reeve** approached Mayor and Council to speak to the proposed STR ordinances. They would like to be able to apply and receive an STR permit. Mayor Sessions thanked them for their comments.

Jay Holstrom approached Mayor and Council to speak to the proposed STR ordinances. He asked Mayor and Council to do an independent financial study as to STR's.

Heather Hoffman approached Mayor and Council. Ms. Hoffman asked Mayor and Council to work together, join forces and protect the residents with enforcing the current ordinances. She asked Mayor and Council to vote against the ordinances. Mayor Sessions thanked Ms. Hoffman.

Mack Kitchens approached Mayor and Council to speak to the proposed STR ordinances and enforcement. Mr. Kitchens also stated definitions need to be specific as to the residential zones. Mayor Sessions thanked Mr. Kitchens.

Steve Buckner approached Mayor and Council. Mr. Buckner stated he is a plaintiff in the lawsuit filed by Tybee Alliance against the City. He is also against the proposed ordinances and asked Mayor and Council to protect his community. Mayor Sessions thanked Mr. Buckner for his comments.

Dale Williams approached Mayor and Council. Mr. Williams believes this is a compromise and asked Mayor and Council to approve the proposed STR ordinances.

Corey Jones approached Mayor and Council. Mr. Jones stated he does not believe there is a compromise with the proposed ordinances and asked Mayor and Council to take a step back and rethink the proposed STR ordinances. Mayor Sessions thanked Mr. Jones for his comments.

Mindy Hartley approached Mayor and Council. Ms. Hartley spoke against the proposed STR ordinances as she feels her property rights are being taken away. Mayor Sessions thanked Ms. Hartley.

Jon Edwards approached Mayor and Council. Mr. Edwards spoke in favor of the proposed STR ordinances and asked Mayor and Council to approve. Mayor Sessions thanked Mr. Edwards for his comments.

Debbie Kearney approached Mayor and Council. She asked Mayor and Council to approved the proposed STR ordinances as there has been a compromise. Mayor Sessions thanked Ms. Kearney for her comments.

Keith Gay approached Mayor and Council. He asked Mayor and Council to take a step back and address the real issues: noise, trash and parking. Mr. Gay expressed his concerns regarding homestead exemption and enforcement of current ordinances. Mayor Sessions thanked Mr. Gay for his comments.

Roger Huff approached Mayor and Council. Mr. Huff recommended taking the proposed STR ordinances off the agenda and making only one ordinance in that way everything will be defined and clear. Mayor Sessions thanked Mr. Huff for his comments.

Don Hartley approached Mayor and Council. Mr. Hartley expressed his concerns with the lack of enforcement with the current ordinances. Mayor Sessions thanked Mr. Hartley for his comments.

Libby Bacon approached Mayor and Council and expressed her opposition to the proposed STR ordinances. Ms. Bacon asked Mayor and Council to rethink their approach. Mayor Sessions thanked Ms. Bacon for her comments.

Sherry Ward approached Mayor and Council. Ms. Ward visits the Island several times a year and supports the Island financially. She further stated there is a benefit to the community with STR's as asked Mayor and Council to vote no for the proposed STR ordinances.

Matt Campbell approached Mayor and Council. Mr. Campbell stated he does have a STR and hopes to retire on the Island. Mr. Campbell asked Mayor and Council why they are promoting the Island and tourism and then approving the proposed STR ordinances. Mayor Sessions thanked Mr. Campbell for his comments.

Cody Gay approached Mayor and Council. Mr. Gay stated enforcement is the problem. Mayor Sessions thanked Mr. Gay for his comments.

Kathryn Williams approached Mayor and Council. Ms. Williams stated enforcement is an issue. She asked Mayor and Council to enforce the Master Plan and LDC and approve the proposed STR ordinances. Mayor Sessions thanked Ms. Williams for her comments.

Tony Vasquez approached Mayor and Council. Mr. Vasquez expressed his thoughts regarding neighbors as Tybee has good neighbors who come together when there is a problem. Mayor Sessions thanked Mr. Vasquez for his comments.

Joshua Morris approached Mayor and Council to express his concerns with enforcement. Mayor Sessions thanked Mr. Morris for his comments.

Beth Sheffield approached Mayor and Council. Ms. Sheffield asked Mayor and Council to rewrite the proposed STR ordinances before them tonight and possibly looked at zoning options for STR's. Mayor Sessions thanked Ms. Sheffield for her comments.

Anna Butler approached Mayor and Council. Ms. Butler asked Mayor and Council to limit STR's and find a way to allow property owners who do not currently have a permit to have an opportunity to get one, possibly with a waitlist. Mayor Sessions thanked Ms. Butler for her comments.

Carol Seckinger approached Mayor and Council. Ms. Seckinger explained she rents and monitors her property and would like one day to retire on Tybee. Mayor Sessions thanked Ms. Seckinger for her comments.

Barry Brown left the meeting due to an emergency.

Monty Parks made a motion to approve the consent agenda. **Spec Hosti** seconded. Vote was unanimous to approve, 5-0.

Public Hearings

Site Plan: 301 First Street-requesting to add golf cart rentals & restaurant-Liran Portal. **George Shaw** approached Mayor and Council. Mr. Shaw explained the petitioner purchased the Sugar Shack and it is their intent to keep the ice cream store; get

rid of the restaurant, as they do not plan to serve any other food; and add a bike and golf cart rental. Staff recommended approval and the Planning Commission recommended approval 4-2. It is the petitioner's intent to improve the parking area with landscaping and trees. There will also be designated parking for the apartments as it is a mixed-use building and a drainage plan is not required. **Beth Sheffield** approached Mayor and Council. Ms. Sheffield expressed her concerns with parking on the property and if there is sufficient parking for the golf carts. Mr. Shaw addressed Ms. Sheffield's concerns stating there is ample parking on the property. He continued, the Code requires off-street spaces. Mayor Sessions stated if Mayor and Council approved this item, there could be a caveat for appropriate parking as defined in the Code. Mr. Shaw confirmed. **Keith Gay** approached Mayor and Council. Mr. Gay stated he does not understand how the parking spaces can be used for the last twenty years and now dispute with new ownership. He further commented the new owners should not be short changed parking spaces. **Murray Marshall** approached Mayor and Council. Mr. Marshall clarified the parking spaces as not only the property owner but also patrons and beach goers can use them. These spaces, in his opinion, have been there for a long time and should be allowed. **Dee Matkowski** approached Mayor and Council. Ms. Matkowski confirmed there are apartments above the Sugar Shack. Mr. Shaw confirmed, as there are two (2) apartments. Ms. DeVetter asked Mr. Shaw how many parking spaces are required. Mr. Shaw responded, 15 parking spaces required for the business and apartments. The Site Plan shows 18 spaces and two (2) bicycle racks. Mr. Hosti stated the Sugar Shack has been in that location for over 50 years. **Monty Parks** made a motion to approve. **Spec Hosti** seconded. Vote was unanimous to approve 5-0.

Site Plan: 402 First Street-requesting to add a lift to front deck -Jason Dubuque. **George Shaw** approached Mayor and Council. Mr. Shaw explained the Back River Brewery recently opened above the Agave Restaurant and due to the heavy items that need to be taken to their business they would like to add a lift. There is not space to install a full elevator outside without using existing parking spaces so the petitioner is seeking approval to install a lift. When supplies are delivered, the lift will be used but during business hours, the lift will remain in the up position so the parking spaces can be used. Mr. Shaw stated Staff recommended approval and the Planning Commission approved unanimously. Mr. Parks shared his concerns regarding the weight of the materials and if the deck is rated. Mr. Shaw responded the City did not look. Chief Kendrick approached. He stated when a business changes ownership, it is a State Law it must be inspected, a Life Safety Inspection, for the building. Mr. Hosti asked for clarification. Chief Kendrick stated everything has to be inspected. Dr. West stated the petitioner had a safety inspection prior to leasing of the property. Don Hartley approached Mayor and Council. Mr. explained the State Fire Marshal approves/disapproves the elevators/lifts. **Monty Parks** made a motion to approve. **Spec Hosti** seconded. Vote was unanimous to approve 5-0.

Tree Appeal: -402 6th Street-appeal of actions Sec. 7-100 regarding denial of tree permit-Jone Bremer. **George Shaw** approached Mayor and Council. Mr. Shaw stated the petitioner submitted a request for a permit to remove 21 significant trees. The permit was denied and she subsequently submitted a request for a pool and an addition to her residence permit. The trees that are in the footprint of the new addition were approve for removal as well as the pool permit. Later, it was discovered there is a tree in

the footprint of the proposed pool that was not shown on the tree survey. Mr. Shaw continued, the pool permit was rescinded but the addition to the home was allowed. He stated, while you can remove a significant tree to make reasonable beneficial economic use of the property, a pool does not reach that threshold. Staff recommended denial and the Planning Commission recommended denial, 3-2. Mr. Hosti asked if the tree is removed, will there still be in compliance. Mr. Shaw confirmed. Ms. DeVetter asked why the tree was not shown on the initial tree survey. Mr. Shaw responded per the surveyor, it was left off. Dr. West asked if a tree could be planted in its place. Mr. Shaw stated no, not with the way the ordinance is written, as you cannot remove a significant tree. Mr. Parks asked Mr. Hughes, if the tree was removed, could the petitioner plant another tree. Mr. Hughes stated, he could ask that question to the petitioner, who is present. Mr. Burke asked why the City granted a pool permit without actually visiting the site. Mr. Shaw stated the arborist did visit the site but did not have the pool permit with him and did not realize the tree was in the footprint of the proposed pool. Jone Bremer approached Mayor and Council. Ms. Bremer discussed the Planning Commission Meeting, as she does not feel they asked her pertinent questions. She read from a prepared statement. Ms. Bremer gave a brief history of the property to include the adjoining property, which she purchased. It is her intent to put an addition on to the existing residence and put in a pool to accommodate her growing family. She continued, she does not have a STR permit and does not have any intentions to do so. Ms. Bremer explained she was given a pool permit on May 4, 2022, which has since been revoked. She stated the trees that were to be removed were marked for the pool and for the addition. Twenty-one trees were marked and after review, it was determined only sixteen trees needed to be removed and only one of those trees is in the footprint of the pool. Ms. Bremer stated she submitted a second tree removal permit and a topo at that time, which identified the trees to be removed as well as the marks that remained on the trees. She again stated all trees were marked for removal and did not realize until an on-site visit that the tree was not on the topo although it is noted on both applications. Greg Harrison approached. Mr. Harrison stated he is a surveyor and it was an oversight that the tree was not on the survey. She is asking Mayor and Council to consider approval. Janna Martin, Attorney, approached Mayor and Council. Ms. Martin stated this all comes down to whether the one (1) tree can be removed and whether the pool meets the Code requirement under 7-060, being a reasonable, beneficial, economic use of the property which it does. Ms. Martin continued, her client has met all the legal requirements and if denied, she will not be allowed to have reasonable, beneficial and economic use of her property. Patrick Murphy approached Mayor and Council. Mr. Murphy stated the petitioner purchased the adjoining property so the pool could be placed in the center of the home site, as she would like to enhance the property. Ms. Bremer stated she does not want to cut the tree but there is no other location on the property for the pool. She complimented Mr. Shaw and Ms. Schaaf for their hard work and professionalism. Roger Huff approached Mayor and Council. Mr. Huff recommended Mayor and Council approval this agenda request as the pool would increase the property value. Mr. Hosti stated this is a unique situation where the addition will be on the second lot as the original house sits on another lot. **Spec Hosti** made a motion to approve. **Jay Burke** seconded. Voting in favor were Brian West, Monty Parks, Jay Burke and Spec Hosti. Voting against was Nancy DeVetter. Motion to approve, 4-1.

Variance: 8 Eighteenth Place-requesting to add elevator in side setback-Judy & Greg Hirsch. George Shaw approached Mayor and Council. Mr. Shaw **stated** Mr.

Hirsch currently has a medical issue that is creating mobility issues. The petitioners are requesting a variance to add an elevator in the side setback. Mr. Shaw stated this type of request does not meet the City's technical definition of a variance and Staff recommended approval as the Planning Commission did also by a unanimous vote. Josh Yellen approached Mayor and Council. Mr. Yellen stated he is representing the petitioner and gave a brief description of the elevator and location. He is asking for approval as this is a hardship. **Nancy DeVetter** made a motion to approve. **Brian West** seconded. Vote was unanimous to approve, 5-0.

Variance: requesting to impact marshland to maintain right of way – Polk Street right of way & 318 Polk Street – Zone C2-EC- 4-0025-01-005Y & 005Z - City of Tybee & Michael Leonard. **George Shaw** approached Mayor and Council. Mr. Shaw stated this has been before Mayor and Council five (5) times. This is a City street as well as the driveway for the Leonard's. Both parties are requesting this variance that will improve the driving surface as it is covered at high tide. Staff is recommending approval as well as the Planning Commission unanimously. Mr. Hosti confirmed DNR has approved. Mr. Shaw confirmed. Bill Glass approached Mayor and Council. Mr. Glass, Attorney, representing the Leonard's stated the Leonard's could not be present due to the impending tides. He is asking for Mayor and Council to approve this request. **Spec Hosti** made a motion to approve. **Jay Burke** seconded. Vote was unanimous to approve, 5-0.

Consideration of Ordinances, Resolutions

Second Reading: 2022-09, Sec 66-8, Regulation of Motorized Carts within the City of Tybee Island. **Monty Parks** stated that the ordinance sets the standard now at 70 decibels and would like to see it changed over to carts that are fuel injected or electric which takes it off meter and over to engine style. **Monty Parks** then made a motion to approve changing from decibel reading to engine style. **Brian West** seconded. Vote was unanimous to approve, 5-0.

Jay Burke recused himself.

Second Reading: 2022-10, STR Ordinance, to amend Sec 34-260, 34-261, 34-262, and 34-265. To add Sec 34-267, 34-268 and 34-270. **Monty Parks** made a motion to approve as presented with two exceptions: (1) Sec 34-268(A), strike sentence starting at the words "property management" to the end of the sentence and (2) send this entire ordinance to the Planning Commission to start the process of making it in line with the other ordinances and part of Zoning Ordinances. **Nancy DeVetter** seconded. **Discussion:** Mr. Hughes confirmed. Dr. West asked if the version in the packet before them needs to be changed. Mr. Hugh confirmed. Voting in favor were Nancy DeVetter and Monty Parks. Voting against were Brian West and Spec Hosti. Mayor Session voted in favor. Motion approved 3-2. Jay Burke recused.

Second Reading: 2022-11; Article 4, Sec I, 4-050(A)(B) and (C); Sec II, Definitions; Sec III, Notice of and Abandonment of Nonconforming Use; Sec IV, Allowances; Sec V, Caps in Certain Zoning Districts; and Sec I, Permits Prohibited Exception for Owner Occupied Location (Z-2). **Monty Parks** made a motion to approve as presented with two exceptions: (1) In Sec 3, Abandonment: Staff

to work on appeal process for natural disasters, fire and other catastrophic events and (2) Sec 3, Abandonment and Sec 4, Allowances, have an effective date of May 1, 2023. **Nancy DeVetter** seconded. Voting in favor were Nancy DeVetter and Monty Parks. Voting against were Brian West and Spec Hosti. Mayor Session voted in favor. Motion approved 3-2. Jay Burke recused.

Second Reading: 2022-12 Parking in Short Term Rental locations (Z-3). **Monty Parks** made a motion to continue for further development. **Nancy DeVetter** seconded. Vote was unanimous to approve, 4-0.

Certain Building Permit Holders Ability to Obtain STR Permit FOR DISCUSSION ONLY. **Mr. Hughes** stated at the request of Council, he was asked to develop an ordinance regarding individuals that have secured the building permits before the moratorium intending to have structures built or renovated that would become STR's and could apply for a permit. A search would have to take place to find those building permits, which were issued. He is asking Council to submit their comments prior to this going to the Planning Commission. Ms. DeVetter confirmed knowing the date of the application and completion to find the real number. Mr. Shaw stated he can run a report on permits but will need a period on renovations, as new builds will be easier to determine. Mr. Hosti stated, when he proposed this, his thought was to go back to August 2021. Mr. Hosti recommended Council and Staff send recommendations to Mr. Hughes.

Council, Officials and City Attorney Considerations and Comments

Bubba Hughes

- **Status of Moratorium: Mr. Hughes** stated if he is correct, Mayor and Council approved on second reading, 2022-04, Sec 6, as no further permits in R-1, R-2, R-1B will be issued. Therefore, the Moratorium is officially ended, as there are ordinances put in its place. Mr. Parks confirmed with Mr. Hughes, in the re-permitting or the transfer of a permit during the sale of a house, there is no time limit on the application for the new permit. Mr. Hughes responded, they need to notify the City within seven (7) days of ownership change and the new owner would make application, if they want. The Planning Commission will address this date.
- **Wittendorf Settlement for Ratification: Mr. Hughes** discussed the settlement to include payments by the City and GIRMA. The Release will become part of the City record. **Monty Parks** made a motion to accept the terms of the Agreement. **Nancy DeVetter** seconded. Vote was unanimous to approve, 4-0.

Monty Parks made a motion to adjourn to executive session to discuss personnel, litigation and real estate. **Brian West** seconded. Vote was unanimous to approve, 4-0.

Monty Parks made a motion to return to regular session. **Spec Hosti** seconded. Vote was unanimous to approve, 4-0.

Brian West made a motion to adjourn. **Monty Parks** seconded. Vote was unanimous to approve, 4-0.

Meeting adjourned at 11:45PM

Janet LeViner, MMC
Clerk of Council